

Flamm Walton PC
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August 31, 2011

Hon. Jerome B. Simandle
Mitchell H. Cohen U.S. Courthouse
One John F. Gerry Plaza
4th & Cooper, Room 6101
Camden NJ 08101-0888

Re: City Select Auto Sales, Inc. v. David Randall Associates, Inc., et al.
Civil Action No: 1:11-CV-02658-JBS-KMW

Dear Judge Simandle:

I represent the Defendants in the above case, in which the Plaintiff alleges that they caused two unsolicited faxes to be sent to its facilities in violation of the Telephone Consumer Protection Act. It additionally alleges, "on information and belief", that the Defendants caused an unspecified number of unsolicited faxes to be sent to an unidentified number of similarly situated entities or persons without prior permission. The Complaint was served on August 1st. The Defendants filed a Motion to Dismiss, which the Court has scheduled for determination on the papers on September 19, 2011.

At the same time the Complaint was filed, counsel for the Plaintiff filed a Motion for Class Certification. The return date for that Motion is also September 19, 2011. I respectfully submit that the Class Certification Motion is indisputably premature, and I request that it be stayed in the interest of judicial economy. If the Court grants the Motion to Dismiss, the Class Certification Motion will be moot, but under any circumstances a great deal of discovery would clearly be required prior to considering the Plaintiff's class certification request.

If Your Honor prefers that this request be made in the form of a formal motion or a filed response to the Defendants' Class Certification Motion, please let me know.

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ATTORNEYS AT LAW

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Sincerely,



F. EMMETT FITZPATRICK, III

cc: Alan Milstein, Esq.